

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JEFF BACHNER,

Plaintiff,

- against -

COMPLEX MEDIA, INC.

Defendant.

Docket No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Jeff Bachner (“Bachner” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Complex Media, Inc., (“Complex” or “Defendant”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of Marcell Dockery, a teenager accused of setting a building on fire, owned and registered by Bachner, a New York City based photojournalist. Accordingly, Bachner seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or are transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Bachner is a professional photojournalist in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 110 Shore Blvd, Brooklyn, New York 11235. Bachner's photographs have appeared in many publications around the United States.

6. Upon information and belief, Complex is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 1271 Avenue of the Americas, New York, New York 10020. At all times material hereto, Complex has owned and operated a website at the URL: [www.complex.com](http://www.complex.com) (the "Website").

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff's Ownership of the Photograph**

7. On or about April 10, 2014, Bachner photographed Marcel Dockery as he is escorted out of the Precinct (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Bachner is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph has US Copyright Registration number of VA 2-024-471.

#### **B. Defendant's Infringing Activities**

10. Upon information and belief, on April 10, 2014, Complex ran an article on the Website entitled *Brooklyn Teen Who Started Fire That Killed NYPD Officer Could Be Charged with Murder*. See <http://www.complex.com/pop-culture/2014/04/marcell-dockery-could-face->

murder-charges. The article prominently featured the Photograph. A true and correct copy of the article is attached hereto as Exhibit B.

11. Complex did not license the Photograph from Plaintiff for its article, nor did Complex have Plaintiff's permission or consent to publish the Photograph on its Website.

**FIRST CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST COMPLEX)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Complex infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Complex is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Complex have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Complex be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
January 23, 2016

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